

1959/17



THE COOK ISLANDS TREASURY REGULATIONS 1959

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 18th day of February 1959

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Cook Islands Act 1915, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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PART I—PRELIMINARY

Title

1. These regulations may be cited as the Cook Islands Treasury Regulations 1959.

Commencement

2. (1) These regulations shall come into force in the Cook Islands (other than Niue) on the date of the commencement of sections 15 to 21 of the Cook Islands Amendment Act 1957.

(2) These regulations shall come into force in Niue on the date of the commencement of sections 59 to 63 of the Cook Islands Amendment Act 1957.

Interpretation

3. In these regulations, unless the context otherwise requires,—

“Administration” means the Cook Islands Administration or the Niue Island Administration, as the case may require:

“Accounting officer” means any person who by any law, regulation, Ordinance, or appointment is required to render any account, or who is charged with the duty of collecting or receiving, or who does actually collect or receive, any public money, or who is charged with the duty of disbursing, or who does actually disburse, any public money, or who is charged with the receipt, custody, or disposal of or the accounting for public stores or other public property:

“The Act” means the Cook Islands Act 1915:

“The Audit Office” means the Controller and Auditor-General appointed under the provisions of section 12 of the Public Revenues Act 1953; and includes any person for the time being authorised to exercise or perform any of the powers, duties, or functions of the Controller and Auditor-General:

“Estimates”, in relation to the Cook Islands Supplementary Account or to the Niue General Account, means the statement of estimated receipts and proposed payments of that account during any financial year or period as recommended by the Resident Commissioner and approved by the Minister; and includes any further statements prepared in the form of supplementary estimates relating to that year:

“Financial year” means a period of 12 months ending with the 31st day of March:

“Imprestee” means any person in whose hands any public money is placed for expenditure in the public service:

“Public money” means money, or securities of any kind for the payment of money, received for or on account of, or payable to, or belonging to, or deposited with, the Administration or any Department or agency of the Administration; and includes public securities:

“Public securities” means securities representing the investment of public money:

“Public stores” or “stores” means all chattels, machinery, livestock, or buildings in the possession or under the control of any Department of State on account of the Government of the Cook Islands (other than Niue) or of the Government of Niue or of the Government of New Zealand:

“Resident Commissioner” means the Resident Commissioner of the Cook Islands or the Resident Commissioner of Niue, as the case may require:

“Treasurer” means the Treasurer of the Cook Islands or the Treasurer of Niue, as the case may require:

Expressions defined in the Act have the meanings so defined.

PART II—MONEY IN COOK ISLANDS SUPPLEMENTARY ACCOUNT OR NIUE GENERAL ACCOUNT

Application

4. This Part of these regulations shall apply only with respect to money credited or to be credited to the Cook Islands Supplementary Account or to the Niue General Account.

Treasurer's Instructions

5. Subject to the direction of the Resident Commissioner, the Treasurer shall be charged with the administration of this Part of these regulations, and all accounting officers and persons concerned in the collection, receipt, custody, and expenditure of public money shall obey all instructions they may from time to time receive from the Treasurer with respect to the public money or to accounting for the same.

Banking of Money in New Zealand

6. (1) Public money kept in New Zealand shall be kept at the Reserve Bank of New Zealand at Wellington, or with such agents of that Bank as the Secretary for Island Territories from time to time directs, in accounts to be distinguished as the Cook Islands Treasury Account, the Cook Islands Administration Account, the Niue Island Treasury Account, and the Niue Island Administration Account.

(2) The Treasurer shall from time to time remit to the Reserve Bank of New Zealand to the credit of the appropriate account such public money as in his opinion is not required in the Cook Islands other than Niue, or in Niue, as the case may be, for immediate disbursement.

Signing of Cheques

7. (1) Cheques on the Cook Islands Treasury Account shall be signed by the Treasurer of the Cook Islands or other officer appointed by the Resident Commissioner of the Cook Islands to act in his stead, and countersigned by the Resident Commissioner of the Cook Islands or other officer appointed by him to act in his stead.

(2) Cheques on the Cook Islands Administration Account shall be signed by the Accountant, Department of Island Territories, or other officer appointed by the Secretary of Island Territories to act in that capacity for the purposes of these regulations.

(3) Cheques on the Niue Island Treasury Account shall be signed by the Treasurer of Niue or other officer appointed by the Resident Commissioner of Niue to act in his stead, and countersigned by the Resident Commissioner of Niue or other officer appointed by him to act in his stead.

(4) Cheques on the Niue Island Administration Account shall be signed by the Accountant, Department of Island Territories, or other officer appointed by the Secretary of Island Territories to act in that capacity for the purposes of these regulations.

Official Receipts

8. Except in cases where the Treasurer otherwise directs, an official receipt in the form approved by and printed under the authority of the Treasurer shall be given to every person paying any money to an accounting officer.

Estimates of Expenditure

9. (1) The Resident Commissioner shall submit to the Minister by such date in each financial year as the Minister specifies a detailed statement under approved headings of the estimated receipts and payments of the Cook Islands Supplementary Account or the Niue General Account, as the case may be, for that financial year, and by such date in each financial year as the Minister specifies a supplementary statement of any further expenditure for that financial year that may subsequently be found to be necessary.

(2) Where subsidies either special or general are required to be granted by Parliament to cover the payments proposed in the estimates for any year or period, the approval of the Minister shall be deemed to be conditional on those subsidies being subsequently appropriated in the manner required by the Public Revenues Act 1953.

(3) Where subsidies to the required amount are not subsequently appropriated, the Resident Commissioner shall forthwith submit to the Minister revised estimates for the financial year or period, taking into account the reduced amount of funds actually available to the Administration.

Power of Resident Commissioner to Authorise Expenditure

10. (1) Subject to appropriate provision being included in the approved estimates, the Resident Commissioner may without further authority—

- (a) Authorise all expenditure of a routine or recurring nature; and
- (b) Authorise any expenditure of a capital nature where the total estimated cost does not exceed £1,000.

(2) Where the total estimated cost of any proposed capital work or purchase exceeds £1,000 (irrespective of whether the whole cost will be met in any one year) the Resident Commissioner shall obtain the approval of the Minister before any commitment to expend money is entered into.

(3) The Resident Commissioner may, with the approval in writing of the Minister, delegate to any employee of the Cook Islands Public Service any of the powers conferred on the Resident Commissioner by this regulation.

(4) Subject to any general or special conditions attached by the Resident Commissioner, the person to whom any power is delegated under subclause (3) of this regulation may exercise that power in the same manner and with the same effect as if it had been conferred on him directly by this regulation and not by delegation.

(5) Every person purporting to act pursuant to any such delegation shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(6) Every such delegation shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Resident Commissioner.

(7) Every such delegation shall, until it is revoked, continue in force according to its tenor, notwithstanding that the Commissioner by whom it was made may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

Vouchers to be Certified

11. (1) All vouchers for the expenditure of public money shall be signed by an officer designated a certifying officer.

(2) A certifying officer within the Cook Islands (other than Niue) or, as the case may be, within Niue shall be appointed by the Resident Commissioner, and shall have such duties and responsibilities as to certification as are prescribed from time to time by the Treasurer.

(3) A certifying officer within New Zealand shall be appointed by the Secretary for Island Territories, and shall have such duties and responsibilities as to certification as are prescribed from time to time by the Secretary.

Approval of Expenditure

12. All expenditure of public money shall be approved by the Resident Commissioner or by an officer appointed in that behalf by the Minister:

Provided that, where an officer is authorised to certify and approve claims, he shall not exercise both authorities in respect of the same claim.

Orders for Payment to Persons Other Than Claimants

13. (1) Except in the case of payments under a power of attorney, letters of administration, or probate, payments to others than the claimants themselves may be made only on the order of the claimants given in the form approved by the Treasurer. Such orders may be either general or special:

Provided that nothing in this subclause shall prevent the Treasurer from making payment to any person authorised by name in a communication addressed to the Treasurer by the claimant in a form which the Treasurer considers satisfactory. Any such payment shall be made only to the person authorised by name by the claimant, and in no circumstances to a third party purporting to act on behalf of the person authorised.

(2) A general order may be revoked at pleasure, and shall be renewed at the expiration of two years from the date thereof if it is desired to keep it in force for any longer period. If it is not so renewed, the Treasurer may regard the order as cancelled:

Provided that orders by officers or other employees of the Administration for the payment of salary to a bank or for allotments of part salary or for deductions from salary shall remain in force until cancelled.

(3) No order for the payment of any salary, allowance, or other emolument to any person other than the payee shall be accepted by the Treasurer except in cases where the payee is, on account of absence from office or from other cause, unable to receive the payment himself:

Provided that this regulation shall not apply to an order for payment to a bank, or to any allotment of part salary or deductions from salary approved by the Treasurer.

Payments to Attorneys, Executors, and Administrators

14. Save as provided in regulation 15 of these regulations, payments may be made to persons authorised to receive money as attorney, executor, or administrator, only on the production of the power of attorney, probate, or letters of administration; and the paying officer shall note on the voucher that the instrument has been produced to him, and the date thereof. Where a power of attorney is produced to a paying officer, he may require proof that it has not been revoked.

Payments Without Probate

15. (1) Subject to these regulations, on the death of any person to whom any sum of money not exceeding £100 is payable, it shall be lawful for the Resident Commissioner, on being satisfied as to the expediency for dispensing with production of probate or letters of administration, to authorise the payment of that sum or any part thereof to any person or persons whom the Resident Commissioner deems entitled thereto without requiring the production of probate or of letters of administration.

(2) Any payment made in pursuance of this regulation shall be valid against all persons whomsoever, and all persons acting under its provisions shall be absolutely discharged from all liability in respect of any money duly paid or applied by them under this regulation.

(3) Every person to whom any such payment is made shall be liable to apply the same in due course of administration, and the Resident Commissioner may, if he thinks fit, require that person to give sufficient security by bond or otherwise that the payment will be so applied.

(4) Before authorising any payment under this regulation, the Resident Commissioner may require production of proof to his satisfaction of the death of the person to whom the money is payable.

Imprest Accounts

16. (1) Advances by way of imprest within the Cook Islands (other than Niue) or, as the case may be, within Niue may be made to such officers and for such purposes as may be approved by the Resident Commissioner. The Treasurer shall direct the manner in which an imprestee is to account for the money under his control.

(2) Advances by way of imprest within New Zealand may be made to such officers and for such purposes as may be approved by the Secretary for Island Territories, who shall direct the manner in which an imprestee is to account for the money under his control.

PART III—ANNUAL ACCOUNTS

Annual Accounts

17. (1) As soon as possible after the close of each financial year, the Treasurer shall furnish to the Resident Commissioner such accounts and statements in respect of that year as the Minister directs.

(2) Where activities, institutions, or services are of a commercial nature, separate Income and Expenditure Accounts and Balance Sheets shall, as far as is practicable, be prepared and submitted.

Accounts to be Sent to Minister and Audit Office

18. The annual accounts prepared in accordance with regulation 17 hereof shall be forthwith transmitted to the Minister and the Audit Office.

PART IV—CONTROL OF PUBLIC STORES

Treasurer's Instructions

19. The Treasurer shall issue instructions dealing with the purchase, custody, issue, inter-departmental transfer, and disposal of public stores.

Application of Other Provisions to Stores

20. The provisions of these regulations and of any instructions made thereunder in their application to public money shall with any necessary modifications apply to public stores.

PART V—AUDIT

Application

21. This Part of these regulations shall apply with respect to the Cook Islands Assembly Account, the Cook Islands Supplementary Account, the Niue Assembly Account, and the Niue General Account.

Annual Audit

22. It shall be the duty of the Audit Office to cause an annual audit to be made of all accounts relating to the receipt, custody, or expenditure of public money, save that, if for any reason the Audit Office deems it necessary or advisable, the audit of any one year's accounts of the Cook Islands Administration may be postponed and the accounts be audited with the following year's accounts, and the audit of any one or two consecutive years' accounts of the Niue Island Administration may be postponed and the accounts be audited with the next following year's accounts.

Duties of Audit Office

23. The Audit Office shall make such examination as it considers necessary to establish the correctness of the accounts and transactions relating to any public money and stores and to ascertain whether in the opinion of the Audit Office—

(a) The accounts have been faithfully and properly kept:

(b) All money has been fully accounted for and the rules and procedures applied are sufficient to secure an effective check on the assessment, collection, and proper allocation of revenue:

- (c) Expenditure has been properly authorised and charged against the proper appropriation, fund, or account and otherwise properly incurred and accounted for, and the rules and procedures applied are sufficient to secure an effective control over expenditure:
- (d) Essential stores records are maintained, and the rules and procedures applied are adequate for proper custody and control of stores.

Appointment of Auditor

24. The Controller and Auditor-General may, by writing under his hand, from time to time appoint any officer of the Audit Department or other fit person to inspect, examine, and audit any books, accounts, or stores which are required to be examined or audited by these regulations, and to report thereon to him.

Powers of Audit Office

25. The Audit Office shall have free access at all reasonable times to the accounts and records relating to any public money or stores and to the premises in which any such accounts, records, or stores are located; and it shall be the duty of all persons whomsoever to afford all such information as the Audit Office at any time requires, and to answer all such questions as may be addressed to them or any of them by the Audit Office touching any public money or stores, or any account thereof, or any other matter which may enable the Audit Office to fulfil the duties imposed on the Audit Office by these regulations.

Vouchers to be Produced

26. The Minister, on satisfactory evidence being provided that the receipts or other requisite papers have been lost or destroyed or that it is not possible to obtain or replace them, may order that any payment of public money be allowed as paid without the production of receipts, and the Audit Office may pass the payment accordingly.

Vouchers for Wages

27. (1) The Audit Office may accept as a sufficient voucher for the payment of any sum as wages a wages sheet setting forth the names of the several payees and the wages paid to them respectively, if the wages sheet is signed by the paying officer and by some other officer or employee who shall both certify on the wages sheet that they were present when the wages were paid.

(2) For the purposes of this regulation, the term "wages" means any money paid in return for services rendered where the amount payable is determined by a fixed hourly, daily, or weekly rate.

Report of Audit Office

28. The Audit Office shall forward to the Minister, for transmission to the Resident Commissioner, the annual accounts of the Administration together with such report thereon as may be necessary.

Cost of Audit

29. The cost of the audit of its accounts shall be borne by the Administration.

Surcharges

30. (1) If it appears to the Audit Office that in any account or transaction subject to its audit there has been any deficiency or loss, or that money has not been fully and properly accounted for by reason of the fact that—

- (a) Any accounting officer or other person has wilfully or negligently omitted to collect, receive, or account for any money; or
- (b) Any money has been applied and charged to any service or purpose for which it was not legally available and applicable; or
- (c) Any payment has been made without proper authority or has not been duly vouched; or
- (d) There has been any deficiency or loss of money or stores, or expenditure of money, or damage to stores or expenditure for the replacement or repair of stores, caused through the fraud, mistake, default, negligence, or error of, or improper or unauthorised use by, any person; or
- (e) Any material error has been committed; or
- (f) Any of the provisions of the Act or any other Act or these regulations have not been complied with,—

the Controller and Auditor-General may call on the person who appears to him to be in default or responsible to show cause why he should not be surcharged with the amount of the deficiency or loss, notifying that person in writing of the proposed surcharge and of the time within which he is required to state why he should not be surcharged.

(2) In any case in which the amount of any deficiency or loss cannot be accurately determined, the Controller and Auditor-General shall make an estimate of the deficiency or loss, and that estimate shall for all purposes be deemed to be correct.

(3) On receipt of any explanation submitted by any person who has been called on to show cause why he should not be surcharged, or in default of any such explanation, the Controller and Auditor-General shall, if he considers the circumstances warrant it, issue a surcharge for the amount concerned. The person surcharged shall be notified by the Controller and Auditor-General of the time within which the surcharge must be satisfied.

(4) Any surcharge unsatisfied within the time so allowed shall be reported by the Controller and Auditor-General to the Minister, to be by him enforced against the person surcharged.

(5) The Controller and Auditor-General may at any time revoke any surcharge made by him in error under this regulation.

(6) Nothing in this regulation shall prevent the recovery without surcharge, from any person liable to be surcharged, of the amount of the deficiency or loss, or of so much thereof as the Controller and Auditor-General thinks fit, as a debt due to the Crown.

(7) If any person having possession or control of any public money or stores applies the same, or causes or permits the same or any part thereof to be applied, to other than public services, or is a defaulter in respect of any such money or stores, the Audit Office shall forthwith

take all such steps as it thinks fit to prosecute the offender according to law; but nothing herein shall prevent the prosecution of that person by any person other than the Audit Office.

Recovery of Surcharges

31. (1) The Minister, on receiving the Controller and Auditor-General's report of an unsatisfied surcharge, may direct the Resident Commissioner to take such steps to recover the amount as the case may require. No amount payable to or claimed by that person shall be paid until the surcharge has been satisfied, and the amount of the surcharge shall be recoverable from that person as a debt due to the Crown:

Provided that payment of not more than one-fifth of the net salary for any pay period of any officer surcharged shall be withheld under this regulation.

(2) All money recovered under this regulation shall be paid into the account which suffered the deficiency or loss in respect of which the surcharge was issued.

Appeal as to Surcharges

32. Any person who has been surcharged and who is dissatisfied with that surcharge may within one month after the date of service on him of notice of the surcharge appeal to the Minister, who, after making such investigation as he deems equitable, may make such order as he thinks fit either confirming the surcharge or directing the relief of the appellant therefrom either wholly or in part, whereupon the amount of the surcharge which has not been remitted shall become due and payable and subject to the provisions of regulation 31 of these regulations.

PART VI—MISCELLANEOUS PROVISIONS

Report of Losses, Deficiencies, and Irregularities to be Sent to Audit Office

33. Where any loss or deficiency of public money or stores or any irregularity in regard to the same has been reported to him under these regulations, the Resident Commissioner shall forward a report thereon to the Audit Office as soon as possible.

Writing-off Losses and Deficiencies

34. No losses or deficiencies in cash, stores, supplies, debtor balances, claims abandoned, or debts irrecoverable by the Administration, nugatory expenditure, or the cash values of issues in kind to any person by way of allowance shall be finally written off save with prior approval of the Audit Office and on the authority of the Minister.

Court Trust Accounts

35. (1) Each Registrar of the High Court shall keep an account to be called the High Court Trust Account, and shall record therein the receipt and disbursement of all trust money coming into his hands in his capacity as Registrar. Any money not required for immediate disbursement shall be invested by deposit in the Post Office Savings Bank.

(2) Each Registrar of the Native Land Court shall keep an account to be called the Native Land Court Trust Account, and shall record therein the receipt and disbursement of all trust money coming into his hands in his capacity as Registrar. Any money not required for immediate disbursement shall be invested by deposit in the Post Office Savings Bank.

(3) All Court trust money shall be deemed to be public money within the meaning of these regulations, and shall, subject to the provisions of these regulations, be dealt with accordingly.

Money Paid to Postmasters

36. All money paid to any Postmaster shall be paid into the Post Office Account, and accounted for under the regulations and instructions for the time being in force for the management of the Post Office:

Provided that in accounting for revenue of the Administration Postmasters shall be subject to the direction of the Resident Commissioner.

Unclaimed Money

37. (1) Every sum of money in the Cook Islands Assembly Account or the Cook Islands Supplementary Account or the Niue Assembly Account or the Niue General Account (whether received before or after the commencement of these regulations) which is or becomes payable to the depositor or other person entitled thereto but remains unclaimed for a period of three years after having become so payable shall, with accrued interest (if any) thereon, at the end of the financial year in which that period of three years expires, be transferred to or, as the case may be, remain in the Cook Islands Assembly Account or the Niue General Account, as the case may require, and be credited to that account as revenue derived in respect of the Cook Islands other than Niue or, as the case may be, in respect of Niue by Her Majesty the Queen in right of the Government of New Zealand:

Provided that the Treasurer shall first advertise his intention so to do by notice published in such manner as he thinks fit.

(2) Nothing in this regulation shall operate to bar any lawful claim to any such money, and the Treasurer may at any time issue and pay any such money to any claimant who establishes his claim thereto to the satisfaction of the Treasurer.

Offences and Penalties

38. (1) Every person who makes any declaration, or gives any certificate required to be made or given by the Act or by these regulations, knowing it to be false, is liable to imprisonment for a term not exceeding six months or to a fine not exceeding £100.

(2) Every person who refuses or neglects to pay any public money into the account into which the same is payable is liable to a fine not exceeding £100.

(3) Every person who refuses or neglects to make any return or furnish any account, vouchers, or other papers which he is required to make or furnish under the provisions of the Act or these regulations is liable to a fine not exceeding £20.

(4) Every person who fails to produce any accounts, books, vouchers, or papers in his possession or under his control which he is so required to produce, or refuses to be sworn or to answer any lawful question asked him by the Resident Commissioner or other person authorised to act in his behalf, or by the Audit Office, is liable to a fine not exceeding £100.

(5) Every person who is guilty of any wilful act of commission or omission contrary to any of the provisions of these regulations for which no penalty is expressly provided is liable to a fine not exceeding £50.

(6) All fines incurred shall be recovered upon the information of any person appointed by the Resident Commissioner in that behalf either generally or in any particular case.

Reserved Enactment

39. These regulations are hereby declared to be a reserved enactment for the purposes of sections 39 and 70 of the Cook Islands Amendment Act 1957.

Revocations

40. The regulations specified in the Schedule hereto are hereby revoked.

Reg. 40

SCHEDULE

REGULATIONS REVOKED

Regulation	Published in <i>Gazette</i>	
	Year	Page
The Cook Islands Treasury Regulations 1916	1916	2197
Regulations made by Order in Council on 1 February 1921 amending the Cook Islands Treasury Regulations 1916	1921	491
The Cook Islands Treasury Regulations Amendment 1930	1930	2879
Regulations made by Order in Council on 11 May 1931 amending the Cook Islands Treasury Regulations 1916	1931	1536
The Cook Islands Treasury Regulations Amendment 1932	1932	2134
The Cook Islands Treasury Regulations Amendment 1934	1934	3380
The Cook Islands Treasury Regulations Amendment 1935	1935	1128

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations consolidate with amendments the provisions of the Cook Islands Treasury Regulations 1916 and their amendments.

The regulations prescribe—

- (a) The procedure for the receipt, custody, banking, expenditure, care, and management of money credited or to be credited to the Cook Islands Supplementary Account or the Niue General Account:
- (b) The procedure for the preparation of annual accounts:
- (c) The rules for the control of public stores:
- (d) The procedure for the audit of the Cook Islands Assembly Account, the Cook Islands Supplementary Account, the Niue Assembly Account, and the Niue General Account:
- (e) The manner in which unclaimed money is to be dealt with.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 February 1959.

These regulations are administered in the Department of Island Territories.